

ORIGINAL

DIVISION OF CONSUMER ADVOCACY
Department of Commerce and
Consumer Affairs
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PUBLIC UTILITIES
COMMISSION

2010 FEB 19 P 3:55

FILED

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
WAI'OLA O MOLOKA'I, INC.)
For Review and Approval of Rate Increases;)
Revised Rate Schedules; and Revised Rules)

DOCKET NO. 2009-0049

DIVISION OF CONSUMER ADVOCACY'S
SUBMISSION OF REBUTTAL INFORMATION REQUESTS

Pursuant to the Stipulated Regulatory Schedule approved in Order Approving Proposed Procedural Order, as Modified filed on November 6, 2009 the Division of Consumer Advocacy submits its **REBUTTAL INFORMATION REQUESTS** in the above docketed matter.

DATED: Honolulu, Hawaii, February 19, 2010.

Respectfully submitted,

By Dean Nishina
DEAN NISHINA
Executive Director

DIVISION OF CONSUMER ADVOCACY

DOCKET NO. 2009-0049

WAI'OLA O MOLOKA'I, INC.

SUBMISSION OF REBUTTAL INFORMATION REQUESTS

INSTRUCTIONS

In order to expedite and facilitate the Consumer Advocate's review and analysis in the above matter, the following is requested:

1. For each response, the Company should identify the person who is responsible for preparing the response as well as the witness who will be responsible for sponsoring the response should there be an evidentiary hearing;
2. Unless otherwise specifically requested, for applicable schedules or workpapers, the Company should provide hard copies of each schedule or workpaper together with one copy of each such schedule or workpaper on electronic media in a mutually agreeable format (e.g., Excel and Quattro Pro, to name two examples); and
3. When an information request makes reference to specific documentation used by the Company to support its response, it is not intended that the response be limited to just the specific document referenced in the request. The response should include any non-privileged memoranda, internal or external studies, assumptions, Company instructions, or any other relevant authoritative source which the Company used.
4. Should the Company claim that any information is not discoverable for any reason:
 - a. State all claimed privileges and objections to disclosure;

- b. State all facts and reasons supporting each claimed privilege and objection;
- c. State under what conditions the Company is willing to permit disclosure to the Consumer Advocate (e.g., protective agreement, review at business offices, etc.); and
- d. If the Company claims that a written document or electronic file is not discoverable, besides complying with subparagraphs 4(a-c), identify each document or electronic file, or portions thereof, that the Company claims are privileged or will not be disclosed, including the title or subject matter, the date, the author(s) and the addressee(s).

DOCKET NO. 2009-0049

WAI'OLA O MOLOKA'I, INC.

SUBMISSION OF REBUTTAL INFORMATION REQUESTS

CA-RIR-1

Ref: WOM-RT-100, page 2.

The Company is asserting that the appropriate benchmark is to use the currently effective rates, which include the temporary increase granted as a result of Docket No. 2008-0115.

- a. On page 9 of the Commission's Order Denying Wai'ola O Moloka'i, Inc.'s Request To Submit Unaudited Financial Statements In Lieu Of Audited Financial Statements, filed on April 2, 2009, the Commission states that, "[t]he rates approved in the Temporary Rate Order are not WOM's permanent rates and were only to be in effect for a short period of time. Thus, WOM's articulation of proposed rate increases from its temporary User Charge is misleading and improper. Accordingly, WOM's amended application, to be filed in this proceeding, shall reflect any proposed rate increases from its permanent rates approved in Decision and Order No. 12125." Please discuss whether the Company's assertion in rebuttal testimony is consistent with the Commission's Order.
- b. Assuming that the Company contends that the Commission's Order is relevant only to the amended

application and not the determination of whether a phase-in is appropriate, please provide authoritative citation to any relevant Commission Decision and Order that would support such an assertion.

- c. Please identify the lowest percentage increase, regardless of the starting point (Docket Nos. 7122 or 2008-0115), on which the Company contends that a phase-in is appropriate. Please provide a copy of any analysis that would illustrate how a phase-in plan, at any lower level would adversely affect the Company.
- d. The Company contends that a phase-in plan over twelve months "should be rejected because of the significant losses reflected for the test year, even under the Consumer Advocate's proposed expense levels."
 - 1. Assuming that the Company's rebuttal position is adopted by the Commission, please provide a copy of the analysis conducted by the Company that illustrates the significant losses that would be experienced and how a phase-in plan over 12 months would adversely affect the Company.
 - 2. Assuming that the Consumer Advocate's recommended revenue requirement is adopted by the Commission, please provide a copy of the analysis

conducted by the Company to support its assertion that a phase-in plan over 12 months would adversely affect the Company.

3. If not already addressed, under both the Company's rebuttal position and the Consumer Advocate's recommended position, the Company is either earning income (i.e., making profits) or breaking even, please explain how significant losses would be incurred under a phase-in plan.

CA-RIR-2

Ref: WOM-RT-100, pages 6 - 8.

- a. Please discuss whether the Company has any studies, reports or analyses that would support the contention that its current compensation and benefits package is inadequate in comparison to other Hawaii small utility companies. If so, please provide a copy of the applicable study, report, or analysis.
- b. Other than any regulated subsidiaries, please identify any other Hawaii utility company that provides almost complete coverage of all medical and dental plan expenses.
- c. Without any showing by the Company to justify that its level of compensation, both pay and benefits, are inadequate, please explain why the Commission should allow the current

level of the existing benefits coverage to continue beyond the instant rate proceeding.

CA-RIR-3

Ref: WOM-RT-100, page 7.

The Company asserts that current economic conditions are somewhat improved from 2008 and 2009. Please provide a copy of all documentation or analyses relied upon to support this position.

CA-RIR-4

Ref: WOM-RT-100, pages 8 – 9.

In response to a question whether the Company agrees with the Consumer Advocate, the response is that “[n]ormally, I would not.”

- a. Please confirm that the Company is agreeing with neither the methodology nor the resulting value. If this understanding is incorrect, please provide the necessary clarification(s).
- b. The Company indicates that there is an increase of approximately 63 percent when comparing a low of \$0.3769 in June 2009 and a high of \$0.6161 in August 2008. Please confirm that this is actually a decrease and represents a decrease of 38.8 percent from the August 2008 recorded value.

- a. The Company is suggesting the use of an average value based on two month's activity, or, in the alternative, the use of three years of values. Please discuss why an average of two months' value is better than using a single month's value.
- b. Please explain whether the Company has done any analysis to determine whether the three years average of 2007 through 2009 is representative or reasonably reflects expectations of future prices. In your discussion, please address the support, if any, that 2008 prices, which reflect a significant spike in prices, can be reasonably expected again in the near future.
- c. Please provide the Company's definition of "long-term" and if, for purposes of discussion for this or any expense item, the Company is asserting that long-term approximates three years, please state so.
- d. Please provide monthly data for 2006 and 2005 for all meters. In addition, please provide the 2009 and 2010 data for any months not already in the record.
- e. The Company calculated the three year average using values from July 2006 through June 2009. However, the Company uses the value for November and December 2009

to determine a two month average. Please explain the reasonableness of using the periods identified above in the Company's proposed alternatives as compared to using different sets of data, say, January 2007 through December 2009 for a three year average (assuming that all questions about whether 2008 was aberrational).

CA-RIR-6

Ref: WOM-RT-100, pages 14 – 19 and WOM-R-7.

- a. The Company contends that "the Consumer Advocate's information requests seemed to be higher than the other cases." (emphasis added)
 1. Did the Company perform any analysis to arrive at this conclusion?
 2. If so, please identify the other cases considered and provide a copy of that analysis.
- b. Please identify the hours recorded by the Company's regulatory and legal outside services vendors for the discovery phase. In addition, assuming that the detail is available, please further provide a descriptive classification for the hours incurred separately by the legal and regulatory vendors by function, such as drafting responses, conducting analyses, researching, reviewing drafts, etc.

- c. Column 5 of WOM-R-7 indicates that the derivation of the total is based upon the sum of columns 3 and 4. Please confirm that this is not true for lines 6 and 8, where the totals are derived from the sums of columns 2 and 4 since there is no settlement in those two cases.

CA-RIR-7

Ref: WOM-RT-100, pages 27 – 28.

The Company observes that the Consumer Advocate contends that certain portions of plant might be excess capacity, but contends that any such adjustment would not be supported by the Company.

- a. Please discuss whether it is the Company's understanding that the Commission's standard is whether plant is "used and useful" or "used or useful." Please provide any authoritative citations.
- b. Is it the Company's assertion that all of the plant currently existing is necessary to serve the currently existing customer base?
 - 1. If so, please confirm that there is no additional capacity in the existing plant to serve any future incremental or additional demand. Please provide a copy of the report or analysis that supports the Company's response.

2. If the Company is asserting that there is no additional available capacity, please discuss how the Company plans to serve any future additional load.
- c. If it is the Company's assertion that there is capacity that could be used to serve future loads, but, rather than recovering the costs for that capacity from those future customers, the Company is recommending that the existing customers should be required to pay for capacity unrelated to their demands, please provide any authoritative citations that explicitly supports the conclusion that such an expectation is reasonable.
1. If the Company acknowledges that there is existing capacity that was used to previously serve customer demand but is now available, please identify that existing capacity and provide a copy of any analysis or study that supports the Company's response.
 2. If not already provided, please provide the following:
 - (a) Total plant capacity, both peak and average.
If this information is available by major plant function, such detail would be preferable.
 - (b) Recorded monthly peak usage for each of the past three years. If this information is available

by major plant function, such detail would be preferable.

(c) Recorded monthly peak and average usage by customer class and meter size for each of the past three years.

(d) Industry standard values for the expected average and peak usage per type of customer in the Company's service territory.

d. Please confirm that requiring the existing customer base to pay for all fixed and variable costs will result in a higher utility rate for the remaining customers as compared to the costs that are attributable to those customers. If the Company *disagrees, please provide a copy of the analysis or study* that supports the Company's position.

e. If the Company agrees that utility rates designed to recover fully embedded costs from the remaining customer base will be higher because the remaining customers are being burdened with all fixed and variable costs, even those not attributable to capacity required by the existing customer base, does the Company also agree that the higher rates might cause one or more of the following:

1. Customers leave the system due to excessive utility rates;

2. Greater levels of uncollectible expense or bad debts on a short and/or long term basis; or
 3. Customers will be required to modify their lifestyles to allocate a greater portion of their monthly income towards water utility bills.
- f. Assuming that the Company agrees with any of the three possible conditions that might occur, please describe what, if any, solutions the Company would propose to mitigate the adverse impacts on its customers.
- g. Please discuss whether rate design based on evaluating the functionalization and class allocation of rate base, revenue and expense items would reduce most of the possible issues with having one class, such as residential customers, bear costs that might be more appropriately attributable to another class, such as commercial customers, but might result in the remaining commercial customers having to bear costs associated with capacity not necessary to serve those remaining customers. If this understanding is incorrect, please provide the appropriate clarifications and/or corrections.

In the Consumer Advocate's testimony, it was suggested or recommended that the Commission should consider the need for a focused management audit or time and motion study. In the Molokai Public Utilities, Inc. rate case, the Company asserted that a time and motion study was not needed.

- a. Please discuss the Company's position on the need for a management audit or time and motion study.
- b. If the Company agrees that a management audit and/or time and motion study might provide valuable information to both the Company and the Commission, please identify the areas in which the Company agrees that such efforts would be acceptable or desirable.
- c. If the Company contends that management audits and/or time and motion studies are not necessary, given the recent procedural and accounting changes and the significant effects it had on the recorded utility expenses, what evidence can the Company provide to support the contention that all recorded costs are: 1) correctly attributable to the utility company; and 2) reflects a reasonable amount of time associated with the various labor hours associated with the tasks required to operate and maintain the Company's

facilities? Please provide copies of any relevant documents that support the Company's assertions.

- d. If the Company cannot provide substantive evidence regarding the reasonableness of the time and expenses that are being recorded by the Companies and a time and motion study is not appropriate or required, please identify the means by which the Company could meet its burden of proof if the Commission was inclined to investigate this matter.
- e. Assuming that the Company contends that the audit of its financial statements performed by KPMG LLC provides some support that could be used by the Commission, please provide a copy of the engagement letter and/or any other communications between the Company and KPMG that clearly indicates that KPMG was tasked to evaluate and test whether the reported time and expenses are correctly recorded and attributable to the utility company as well as evaluating the reasonableness of the time spent on various tasks.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **DIVISION OF CONSUMER ADVOCACY'S SUBMISSION OF REBUTTAL INFORMATION REQUESTS** was duly served upon the following parties, by personal service, hand delivery, and/or U.S. mail, postage prepaid, and properly addressed pursuant to HAR § 6-61-21(d).

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DATED: Honolulu, Hawaii, February 19, 2010.


